

145644  
#



Comptroller General  
of the United States  
Washington, D.C. 20548

## Decision

**Matter of:** Comspec Corporation

**File:** B-245561

**Date:** January 15, 1992

David N. Reeder for the protester.  
Sherry Kinland Kaswell, Esq. and Justin Patterson, Esq.,  
Department of the Interior, for the agency.  
Jackie A. Goff, Esq. and John F. Mitchell, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

### DIGEST

It was reasonable for an agency whose requirements must be satisfied through a mandatory multiple-award supply schedule to issue a delivery order to a firm whose schedule contract included all the agency's requirements--including services such as installation and training--rather than to a firm whose schedule contract does not include such services.

### DECISION

Comspec Corporation, an authorized dealer for LaserData Inc., protests the issuance of a delivery order by the Bureau of Reclamation (Reclamation), Department of the Interior, to Hitachi/Adaptive Information Systems (AIS) in care of Image Processing Systems, Inc. (IPS). The order, for an optical disc system and engineering and support services for use in Denver, was placed pursuant to the mandatory, multiple-award General Services Administration (GSA) Federal Supply Schedule (FSS), Group 67, Part IV, Section B, Microphotographic Equipment, Supplies, and Rental, Repair and Maintenance.<sup>1</sup> Comspec contends that the contracting officer improperly denied it an opportunity to revise certain pricing information which, if considered, should have resulted in the selection of LaserData.<sup>2</sup>

<sup>1</sup>GSA administers the FSS program. See Federal Property Management Regulations (FPMR), 41 C.F.R. § 101-26.402-1(a) (1990).

<sup>2</sup>The agency has argued that we should dismiss Comspec's protest on the basis that the "interested party" is the FSS contractor, LaserData. Comspec points out, however, that it

We deny the protest.

In mid-May 1991, both Comspec and IPS responded to an April 26 Reclamation questionnaire requesting technical, training, and support information for "System capabilities of optical disk equipment." Reclamation's mandatory engineering and support requirements included the development of applications to run the equipment, installation, training, and an 800 hotline. Questions four and five of the questionnaire requested information regarding the availability of maintenance and hotline assistance. Question six specifically asked for a description of the training that was available as part of the equipment purchase. Comspec, in response to the questionnaire indicated that a price of \$213,699 for LaserData equipment included a hotline service but not installation and training (which are not included in LaserData's GSA FSS contract) and which were available only at additional hourly charges. IPS also returned the questionnaire, indicating that installation, training, and an area code 800 hotline all were included in its price of \$214,648 for Hitachi equipment. On July 15, GSA was notified that AIS was lowering its schedule price for two of the Hitachi items IPS had quoted to Reclamation, resulting in a new total price of \$206,034.35 for optical disk equipment and support services meeting Reclamation's needs.

The agency states that it evaluated all the vendors listed on the applicable FSS, including AIS and LaserData. On August 6, the contracting officer received a requisition from the Denver Reclamation Records Management Policy Office for the optical disk system and engineering and support services. The requisition reflected IPS' pricing and listed AIS as the FSS vendor.<sup>3</sup>

---

filed the protest as an authorized reseller agent of LaserData in the Denver, Colorado, area and at LaserData's direction. LaserData has confirmed its support of the protest. Under these circumstances, we regard Comspec as an interested party for the purposes of this protest.

<sup>3</sup>Only the cost of one item had been reduced on the requisition, resulting in a total price on the requisition of \$212,559.35 for IPS' configuration, not \$206,034.35. We have been advised by Interior, however, that it intends to take advantage of both of the price reductions AIS made in its notice of July 15 to GSA, including \$6,525 for the other item, assuming the delivery order to AIS is not affected by our decision.

On August 28, Reclamation issued a delivery order to AIS in care of IPS for the agency's optical disk equipment needs. Comspec received notice of the issuance of the delivery order on September 3, and filed this protest with our Office on September 9.

The protester says that although it had provided to the agency an "informal pricing worksheet" together with its response to the questionnaire, it later sought but was not given an opportunity to submit revised information, including the provision at no charge of certain software as well as the installation and training which it previously had advised Reclamation were available only at an hourly rate. This would make Comspec's price less than AIS'. The agency notes that LaserData's GJA contract did not include the engineering and support services that Reclamation required.

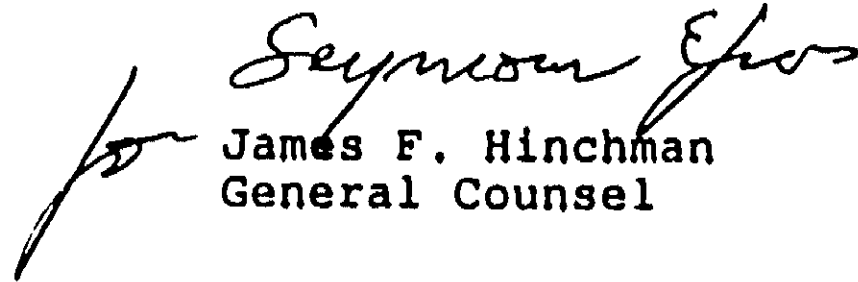
In submitting the information which it did in response to the questionnaire, Comspec assumed the risk that the selection of a source would be made using that information. While the agency may have elected to obtain revised information from Comspec, there was no requirement that it do so. Moreover, even if Comspec had been given an opportunity to submit revised information, Reclamation could not have issued a delivery order for LaserData equipment.

As the agency points out, this acquisition is covered by a mandatory multiple-award Federal Supply Schedule. The purpose of the FSS program is to provide government agencies with a "simplified process of acquiring commonly used supplies and services in varying quantities at lower prices while obtaining discounts associated with volume buying." See Federal Acquisition Regulation (FAR) § 38.101; see also FAR § 8.404. Contracts are awarded using competitive procedures, and GSA's schedule contracting office issues published schedules containing the information needed for placing delivery orders with the schedule contractors. Id. Where there is a mandatory FSS in effect, an agency generally is required to meet its requirements from that schedule if its minimum needs will be satisfied by the items listed on the schedule. See Atmospheric Research Sys., Inc., B-242914; B-242914.2, June 12, 1991, 91-1 CPD ¶ 565.

For this acquisition, all of the agency's requirements including certain services such as installation and training, could be satisfied through the issuance of a delivery order to AIS under that firm's FSS contract. By contrast, as the protester concedes, LaserData's schedule contract does not include engineering and support services, nor has LaserData offered to include such services

prospectively under its GSA FSS contract. Since the agency cannot satisfy its needs under this mandatory FSS from LaserData, the contracting officer's issuance of a delivery order to AIS was reasonable.

The protest is denied.

  
for James F. Hinchman  
General Counsel